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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/828,879

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Simon Reeves

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
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EXAMINER

KISWANTO, NICHOLAS

ART UNIT

PAPER NUMBER

3664

MAIL DATE

DELIVERY MODE

01/22/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/828,879	Applicant(s) REEVES, SIMON	
	Examiner NICHOLAS KISWANTO	Art Unit 3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6,8-10,12-14,17,19-21,23-25,28,30-32,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6,8-10,12-14,17,19-21,23-25,28,30-32,35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 12-17, 23-28, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 2002/0042277) in view of Geiger et al (US 6,377,810) and Neher (US 5,905,461).

- In regard to claims 1, 12, 23, 35 and 36 Smith discloses a method, a computer program on computer readable medium and a system for providing location data of a mobile device using a web service, comprising:
 - Receiving location data at the web service associated with and transmitted by a mobile device (paragraph 24)
 - Receiving a location request from a client using a web service, the location request including information identifying the mobile device and the client (paragraphs 24 and 49)
 - The location request comprising a monitoring request and a criteria for comparing location data (paragraphs 49 and 50)
 - Periodically receiving additional location data associated with the mobile device, comparing the received location data associated with the mobile device to the criteria and automatically communicating an alert to the

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client in response to the location data satisfying the criteria. (paragraph 50)

Smith fails to specifically disclose the criteria comprising a determination of a location of a first mobile device within a specified distance of a second mobile device, however, Smith does disclose being able to monitor multiple devices and being able to specify locations at which the client receives an alert about the location. It would have been obvious to one having ordinary skill in the art at the time of the invention to include sending an alert when mobile clients are nearby each other if the job of the employees is to meet together since it is tracking employees. Smith fails to specifically disclose sending a permission request to the mobile device in response to the received location request and providing access to the location data associated with the mobile device based on a response by the mobile device to the permission request. Smith discloses searching in the HLR subscriber profile to find out if a user has permission to receive the location. (paragraph 24) Geiger et al, however, discloses sending a message to the mobile device requesting location information. (Column 3, line 51 - Column 4, line 6) It would have been obvious to one having ordinary skill in the art at the time of the invention to include this known way of determining whether a user can receive the location information of a mobile device instead of just searching through the subscriber profile. Smith and Geiger et al also fail to disclose polling, by the web service, the mobile device to provide location data, however, this is common and well known in the art as taught by Neher (Column 1, line 58 - Column 2, line 3). It would have been obvious to one having

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ordinary skill in the art at the time of the invention to allow the web service to contact the device and determine its location.

- In regard to claims 2, 13 and 24, Smith discloses the location data comprising a geographic location and a time stamp (paragraph 25)
- In regard to claims 3, 14 and 25, Smith discloses further comprising determining request permissions associated with the mobile device based on the identified client (paragraph 19)
- In regard to claims 6, 17 and 28, Smith discloses the criteria comprising arriving at a location (paragraph 50)
- In regards to claims 8, 19 and 30, Smith discloses the criteria comprising the mobile device crossing a geographic perimeter. (paragraph 50) The mobile device or the client are able to select a designated location on when to send an alert.
- In regard to claim 34, Smith discloses a method for providing a location data of a mobile device using a web service, comprising:
 - Receiving location data at the web service associated with and transmitted by a plurality of mobile devices, the location data including a geographic location and a time stamp (paragraphs 24 and 25)
 - Receiving a location request from a client at a web service, the location request including a monitoring request, criteria and information identifying the mobile device and the client (paragraphs 49 and 50)

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- Periodically receiving additional location data associated with the mobile device (paragraph 49)
- Comparing the received location data associated with the mobile device to the criteria (paragraph 50)
- Automatically communicating an alert from the web service to the client in response to the location data satisfying the criteria (paragraph 50)

Smith fails to specifically disclose sending a permission request to the mobile device in response to the received location request and providing access to the location data associated with the mobile device based on a response by the mobile device to the permission request. Smith discloses searching in the HLR subscriber profile to find out if a user has permission to receive the location. (paragraph 24) Geiger et al, however, discloses sending a message to the mobile device requesting location information. (Column 3, line 51 - Column 4, line 6) It would have been obvious to one having ordinary skill in the art at the time of the invention to include this known way of determining whether a user can receive the location information of a mobile device instead of just searching through the subscriber profile. Smith and Geiger et al also fail to disclose polling, by the web service, the mobile device to provide location data, however, this is common and well known in the art as taught by Neher (Column 1, line 58 - Column 2, line 3). It would have been obvious to one having ordinary skill in the art at the time of the invention to allow the web service to contact the device and determine its location.

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3. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 2002/0042277) in view of Geiger et al (US 6,377,810) and Neher (US 5,905,461) and further in view of Meadows et al (US 6,716,101). Smith fails to disclose the response comprising a route that the mobile device travels between a first and a second location and the response comprising a speed that the mobile device travels over a period of time. Meadows et al discloses this. (Column 5, lines 22-29) It would have been obvious to one having ordinary skill in the art at the time of the invention to include the traveling speed and route taken for a mobile device in order for a client to easily monitor the activities of an employee or child.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 12, 23 and 34 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's arguments filed 10/14/2008 in regards to improper hindsight reasoning is not persuasive since applicant has not provided reason as to why reasoning constitutes improper hindsight. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's

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disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

6. Applicant's arguments filed 10/14/2008 in regards to claims 35 and 36 is not persuasive since the method of authorizing has been addressed in above and previous rejections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARIE A. WEISKOPF whose telephone number is (571)272-6288. The examiner can normally be reached on Monday-Thursday between 7:00 AM and 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on (571) 272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Nicholas Kiswanto
December 19, 2008

/KHOI TRAN/
Supervisory Patent Examiner, Art Unit 3664